

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

Date: October 26, 2010

To: Honorable Members,  
Los Angeles City Council

From: Gerry F. Miller, Chief Legislative Analyst *mf*  
Miguel A. Santana, City Administrative Officer *MAS*

Subject: **Los Angeles Department of Water and Power Governance/Oversight Reform Motions**

**SUMMARY:**

On April 13th, 2010, the Energy and the Environment Committee heard a report from the Chief Legislative Analyst (CLA) and the City Administrative Officer (CAO) on a variety of Motions on reforming the governance of the Los Angeles Department of Water and Power (LADWP). Those Motions proposed the creation of an Ombudsperson / Ratepayer Advocate / Inspector General position (CFs 08-1967, 08-1967-S1, and 09-2544). The Committee instructed the CLA and CAO to review and assess all Motions on LADWP reform, and report to the Council with a comprehensive proposal that addresses governance, oversight and transparency objectives associated with the administration of the LADWP.

On August 10th, 2010, the City Council (Council) adopted Motion (Garcetti – Smith – Perry – Huizar – LaBonge – Reyes – Koretz) (CF 08-1967-S2) which requested the City Attorney, CLA, and the CAO to report on a proposal to create a Ratepayer Advocate for the LADWP, and to begin the process for placing a proposal on the March 2011 ballot. Council also instructed the CLA and CAO to make recommendations on a process for public input regarding the creation and role of the Ratepayer Advocate.

Subsequently, the Energy and Environment and Rules and Elections Committees jointly held a series of 6 evening meetings at various locations throughout the City on reform of the LADWP, and invited input from City residents and ratepayers on proposals to reform the LADWP, what should be changed at the LADWP, and how to go about making those changes.

This report addresses Council's instructions, instructions given at the joint meetings, and feedback received throughout the process. We have provided some specific recommendations which we believe would best achieve the goals of the various motions and instructions during the hearing. In other cases, we provide options for the Council to consider in making its final determination as to what will go on the March ballot.

### LADWP Reform Motions

Initial LADWP Governance Reform Motions introduced in Council called for the creation of a fully independent Ombudsperson for the Department to provide independent analysis of rate increases (see CF 08-1967 - Motion (Huizar – Alarcon)) and a Ratepayer Advocate to provide greater transparency and responsiveness to customers (see CF 08-1967-S1 - Motion (Garcetti – Perry – Reyes – Huizar – Parks – Koretz – Hahn)).

These Motions were subsequently followed by additional Motions on LADWP reform that were introduced following Council's consideration of a proposed increase to the Energy Cost Adjustment Factor (ECAF) and the subsequent withholding of the Power Revenue Transfer that occurred in March and April of 2010. These Motions address a series of issues related to improving and repairing the LADWP's interactions with the City Council.

Several Motions propose the creation of an Inspector General position to independently review and report on operations and management of the LADWP. Other Motions request the Board to be diversified by giving appointing authority to a variety of governmental entities.

Additional Motions propose giving Council the authority to remove a member of the Board or the General Manager of the LADWP with a two-thirds vote.

Other Motions suggest requiring the LADWP annual budget be adopted by the Mayor and Council, and defining the term "surplus" as it relates to the annual Power Revenue Transfer to the City.

### Joint Committee Meetings on LADWP Reform

There were over seventy presentations by City residents made at the various joint Energy and the Environment/Rules and Elections Committee meetings, with concerns repeatedly expressed over the lack of transparency at the LADWP, unresponsiveness of the Department to queries from both officials and members of the public, and customer bills that are both high and difficult to understand.

There was nearly unanimous support from public comment for an entity – either an Inspector General and/or a Ratepayer Advocate – that could oversee operations at the DWP, and for general reform of the governance of the LADWP. Many of those commenting offered specific proposals that covered potential roles and responsibilities of an Inspector General/Ratepayer Advocate, as well as possible funding levels for that entity.

Public comment also was broadly supportive of re-composition of the Board and alternative approaches for appointing its members. These comments requested more balanced and diversified authority over both the Board and the LADWP.

### **Options for LADWP Reform**

#### Re-Composition of the Board

Several Motions on LADWP reform call for re-composition of the Board in order to improve the working relationship between the Department, other City agencies and departments, and the

public at large. Motion (Smith – Perry) (CF 10-0583) also proposes giving Council the authority to remove any Board Commissioner with a two-thirds vote.

At present, the Board is composed of five members, all of whom are appointed by the Mayor and confirmed by the Council. Each of the Motions that address composition of the Board – as well as several comments by both the public and Councilmembers at the joint Committee meetings – express concern that a single appointing authority for the Board can generate conflicts between the Board and other parts of City government. A clear desire for diversifying representation on the Board by introducing new appointing authorities was expressed.

It is clear that there is widespread support by both the Council and the public to re-compose the Board to obtain a more balanced relationship with the Council, Mayor, and the public. Various ideas which have been raised include the following:

- Designate two Board Commissioner appointments to the Mayor; designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to the Mayor and the Council President, on a rotating term/basis;
- Designate two Board Commissioner appointments to the Mayor; designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to a nominee from Neighborhood Councils.
- Establish qualifications for Board Commissioner Appointees, such as expertise in water and electricity issues, green energy or environmental expertise, finance, etc. If all appointments remain with the Mayor, allow removal of a Board Commissioner by a two-thirds vote of the Council.

If the Council does wish to pursue reforming the appointing authorities for the Board, it could also consider expanding the board from five members to seven.

Some of these proposals are significant changes to current Charter provisions and would greatly expand the role of the Council in the appointment of Commissioners to the Board. We believe that some are likely to face strong opposition by members of the public who are concerned with the overarching “accountability” concepts which drove the drafting of the current City Charter. Accordingly, we are presenting two options for Council’s consideration.

The first option largely retains the existing Board structure. It makes material changes in the appointment and removal process that would protect Board members from undue political pressure; it would allow the Council to remove commissioners if the Council determines by a super-majority that commissioners are not acting in the best interests of the people; and it prohibits micro-management by either the Mayor or Council while enhancing accountability. We believe that this option would accomplish the Council’s goals while retaining the concepts of accountability and lines of authority present in the City Charter.

*Option 1:*

- Maintain that Commissioners are appointed by the Mayor and confirmed by the Council;
- Establish the term of each Board Commissioner at 3 years instead of the existing 5 years;
- Provide that other timelines for the Mayor to appoint and the Council to confirm Commissioners remain unchanged;
- Maintain that the Council, by a two-thirds vote, may overturn the Mayor's removal of a Commissioner;
- Provide that a Commissioner may be removed by a two-thirds vote of the Council, and a replacement must be nominated by the Mayor with the same expertise as the Board Member being removed; and
- Several Councilmembers have expressed an interest in establishing Commissioner qualifications. We believe that such requirements could assist in ensuring the professionalism and integrity of the Board. Should the Council wish to establish such qualifications, we recommend that one Commissioner have expertise in water policy issues, one Commissioner have expertise in power policy issues, and one Commissioner have expertise in energy and water related environmental issues. Additionally, the Council may want to consider other qualifications, such as experience in municipal finance and running small businesses. Finally, members of the public and some Councilmembers have expressed an interest in inserting Neighborhood Councils in the appointment process. To address this issue, one member could be appointed from a list of three nominees submitted by the Neighborhood Councils or a Member could be elected by the Neighborhood Councils.

The second and third options make more expansive changes. It should be noted that it would result in an appointment and removal process that differs from other Charter boards and commissions, and they may face more opposition. These options are based on a five member Board, but could readily be altered to seven members should the Council also wish to pursue expansion of the Board.

*Option 2:*

- Designate two Board Commissioner appointments to the Mayor; designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to the Mayor and the Council President on a rotating term/basis;
- Maintain that all Board Commissioner appointments be confirmed by the Council;
- Establish the term of each Board Commissioner at 3 years instead of the existing 5 years to facilitate the sharing of appointment authority between the Mayor and Council;

- Upon a vacancy on the Board, maintain the existing 45 day threshold for the Mayor to appoint a Board Commissioner, and the Council to confirm, yet expanded to include the Council President's appointments including subsequent related provisions;
- Establish that if either the Mayor or the Council President fails to submit a Board appointment within the 45 day threshold, the other appointing authority obtains the privilege to make that appointment – with final appointment authority resting with the Council if both the Mayor and Council President fail to appoint;
- Establish that each appointing authority may remove their respective Board appointees; and
- Maintain that the Council, by a two-thirds vote, may overturn any removal of a Commissioner.
- Similar Board Membership qualifications could be established in this option, however this will be more complicated than in Option 1. Since both the Mayor and the Council President would have appointments to the Board, a process would have to be developed for identifying which of the appointing authorities would appoint which qualified Board Members. It is anticipated that this matter will be discussed while this item is being heard in Committee, and, if the Committee desires, our offices will develop options to present to the full Council to implement this requirement.

*Option 3:*

- Designate two Board Commissioner appointments to the Mayor, designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to be selected by the appointed Board Commissioners;
- Establish that each appointing authority may appoint a Board Commissioner without confirmation of the other appointing authorities;
- Provide that the Mayor or Council President may remove a Board Commissioner with the confirmation of the non-removing entity – Council President or Mayor;
- Establish qualifications to serve on the Board (refer to narrative under Option 1);
- Establish the term of each Board Commissioner at either 3 years or 5 years;

It should be noted that a decision will have to be made relative to the effective date of the changes to the Board of Commissioners. We would recommend that the Council set the effective date of July 1, 2011, to allow approximately three months to identify and appoint new commissioners. The Council could alternatively set the effective date for the expiration at some later time to provide a longer transition period.

Office of the Inspector General/Ratepayer Advocate

Multiple Motions related to LADWP reform have been introduced that call for the establishment of a Ratepayer Advocate (RA) or an Inspector General (IG) function that would oversee rate

actions, customer relations, general operations, and management of the LADWP. There was nearly unanimous support from Committee Members and those giving public comment at the joint Committee meetings for an independent office that would have broad authority to assess LADWP operations, management, rate actions, and customer relations. While there was some concern expressed about the term "Inspector General," it was clear that the vast majority of feedback supported an office which would have authority beyond simply opining on rate increases, and many suggested that the roles of an IG and an RA could be placed in one office.

Whatever term is ultimately used, we recommend the establishment of an office reporting to the LADWP Board that would provide broad reporting on LADWP management and operations and the necessity for rate actions to fund the Department's mission, with the following elements:

- The individual in charge shall be appointed by the Board and confirmed by the Council and the Mayor;
- The Office would have the authority to audit and review programs at the LADWP, investigate complaints of abuse, fraud, or waste of LADWP resources, recommend policies or actions to promote efficiency and effectiveness at the LADWP, and provide independent analyses of internal LADWP actions;
- Grant the Office unrestricted access to all LADWP records, reports, audits, files, correspondence, and data, prompt access to any member of the Board or any officer, employee, or contractor of the LADWP, as necessary;
- Require the Office to make its reports publicly available;
- Require that the office include a Ratepayer Advocate component that would review and analyze proposed rate actions, including both costs associated with those actions and the impacts on the City's renewable programs and goals;
- Require the Ratepayer Advocate component to provide information and publicly accessible recommendations to the Board, the Council, and the Mayor to assist them in reviewing rate actions;
- Require the Ratepayer Advocate component to facilitate consumer protection by granting it the authority to receive complaints or information from ratepayers that are dissatisfied with the results of existing LADWP customer service, investigate those complaints to determine merit, and to propose recommendations to the Board on resolving those issues.
- Require the CAO to annually determine the budget for the Office of the Inspector General; and
- Require the LADWP to fund the Office of the Inspector General at the level recommended by the CAO.

It should be noted that there was some discussion of whether to grant the IG/RA subpoena power. We do not recommend this. The Charter has very specific language relative to who has subpoena power and we believe that adding additional subpoena power is neither necessary nor advisable. Instead, we recommend that the IG/RA be not only required but encouraged to come to the City Council for the issuance of subpoenas. In that manner, there can be broad and

transparent awareness when the IG/RA is not getting access to necessary documents or key individuals, and actions can be taken at the policy making levels to remedy that situation.

All Motions and comments received on establishing an oversight authority over the LADWP stressed that that authority must be able to act independently of the LADWP in making its analyses and recommendations. Making the IG/RA's budget established by the CAO and not the LADWP should help ensure the ability of the IG/RA to make its recommendations and analyses without being subject to budget repercussions. Additionally, should the Council decide to re-compose the Board by granting the Council standing appointments on the Board, granting the Board the authority to appoint the IG/RA should avoid creating a dependence of the IG/RA on any single political office.

#### Appointment and Removal of the LADWP General Manager

Motion (Smith – Perry) (CF 10-0582) and public comments received during the City-wide community meetings expressed support for granting the Council authority to remove the General Manager of the LADWP with a two-thirds vote. We recommend that a procedure consistent with the Charter's process for removing the Chief of Police be applied to the General Manager of the LADWP. That process should:

- Require the Council, by a two-thirds vote, to determine that it will hold a hearing on the removal of the LADWP General Manager at a future meeting;
- Require the Council to then give at least 10 days notice before that hearing to the General Manager of the LADWP, the Board, and the Mayor;
- Require the General Manager, Board, and Mayor to then provide comment on the performance of the General Manager at that hearing; and
- Require removal of the General Manager to then be subject to a two-thirds vote of the Council at that hearing.

This process is consistent with that described in Charter Section 575 as it relates to the removal of the Chief of Police.

#### Revenue Transfer Security and Review of the LADWP Annual Budget

Given the Council's apparent intent to address the issues associated with the governance, oversight and personnel of the LADWP, Motion (Smith – Perry – Parks – Zine – Cardenas – Krekorian) (CF 10-0587) seeks to grant the Council authority to review and consider the DWP's annual budget, with concurrence of the Mayor. Additionally, Motion (Perry – Smith – Parks – Garcetti – Rosendahl – LeBonge – Zine) (CF 10-1289) proposes to establish the definition of 'surplus' in the context of the annual LADWP Power Revenue Transfer to be based on the balance that existed on June 30th of the prior year. Together, these Motions seek to grant the Council control over the LADWP annual budget and establish a reliable and stable process for decisions on Power Revenue Transfers.

The LADWP currently submits its proposed budget to the Board each year in May, and a final budget is adopted by the Board no later than June 1st of each year. Budget documents are not

released for public observation until the Board has reviewed and adopted the proposed Budget documents.

A Charter change that would require the LADWP align its budget schedule with the City's budget cycle, and that would require the LADWP to transmit its proposed budget for review by Council based on the following schedule would address the primary concerns of the Motions and allow the City to act with more certainty relative to the annual Power Revenue Fund transfer:

- October/November: LADWP will formulate the available revenue estimates for approval by Executive Management for planning and budget targets.
- November/December: Both Water and Power Systems should have completed a detailed one year proposed budget and a projected five year expenditure plan.
- December/January: LADWP Executive Management will discuss and review all proposals submitted by Senior Management and forward to the General Manager for approval.
- January/February: The Chief Financial Officer will provide a Department-wide overview of the Financial Plan based on the Proposed Budget.
- February: The LADWP General Manager will present a Budget to the Board of Water and Power Commissioners for review and preliminary action. The Proposed Budget will be released to the Mayor and Council with the understanding that final revenue figures and other estimates such as water availability estimates and costs will continue to be refined through May.
- In March, the DWP Budget shall be submitted to the CAO for inclusion in the Mayor's Proposed Budget for submission to the Council by April 20th.

We recommend that any Charter amendment proposed require submittal of the budget to the Council no later than March 31 of each year, with the understanding that final revenue figures and other estimates such as water availability estimates and costs will continue to be refined through May.

Motion (Perry – Smith – Parks – Garcetti – Rosendahl – LeBonge - Zine) (CF 10-1289) also suggests amending the Charter to establish that the definition of 'surplus' in context of the annual Power Revenue Fund transfer be based on the balance that existed on June 30<sup>th</sup> of the previous year. We recommend that that definition be established in the Charter.

#### Issues related to LADWP Employee Pension and Wages

There are Motions – both Motions (Smith – Parks – Zine) (CFs 10-0581 and 10-0584) – related to LADWP reform that deal address issues related to LADWP employee pensions and wages.

One Motion proposes changing vesting requirements so that LACERS employees who transfer to the DWP will have their LACERS service time frozen, so that those employees will then need to



begin a new five year vesting process in the LADWP Pension system. Issues related to the LADWP pension system are being addressed separately – both in discussions of reciprocity between LACERS and the LADWP Pension system (see CFs 10-0978 and 10-2417), and in a recommendation from the Personnel and Rules and Elections Committees on having the Council assume sponsorship responsibilities over the LADWP Pension system (see CF 10-0621).

The other Motion proposes the creation of a standard of wage parity between employees of the LADWP and employees of other City departments and agencies that share the same job classification. This item may not require an amendment to the City's Charter, and if the Council wishes to pursue this proposal, we suggest that it consider the item separately from reforms of the LADWP that are proposed to be accomplished by a Charter amendment.

### **RECOMMEDATIONS**

If the Council wishes to pursue implementation of LADWP reform by placement of a measure on the March 2011 ballot, the Council should REQUEST the City Attorney, with the assistance of the City Administrative Officer and the Chief Legislative Analyst as necessary, to prepare a ballot title and resolution that would place on the March 2011 ballot a measure or measures that includes the following elements:

#### Reform of LADWP Board Composition:

- Maintain that Commissioners are appointed by the Mayor and confirmed by the Council;
- Establish the term of each Board Commissioner at 3 years instead of the existing 5 years;
- Provide that other timelines for the Mayor to appoint and the Council to confirm Commissioners would remain unchanged;
- Require commissioners to have certain qualifications, including expertise in water and electricity policy issues, experience in the fields of business, commerce, or customer service, or experience in environmental policy, and consider having one member appointed from a list of three nominees submitted by the Neighborhood Councils;
- Maintain that the Council, by a two-thirds vote, may overturn the Mayor's removal of a Commissioner; and
- Provide that a Commissioner may be removed by a two-thirds vote of the Council, and a replacement must be nominated by the Mayor with the same expertise as the Board Member being removed.

---OR---

- Designate two Board Commissioner appointments to the Mayor; designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to the Mayor and the Council President on a rotating term/basis;
- Maintain that all Board Commissioner appointments be confirmed by the Council;

- Establish the term of each Board Commissioner at 3 years instead of the existing 5 years to facilitate the sharing of appointment authority between the Mayor and Council;
- Upon a vacancy on the Board, maintain the existing 45 day threshold for the Mayor to appoint a Board Commissioner, and the Council to confirm, yet expanded to include the Council President's appointments including subsequent related provisions;
- Establish that if either the Mayor or the Council President fails to submit a Board appointment within the 45 day threshold, that the other appointing authority obtains the privilege to make that appointment – with final appointment authority resting with the Council if both the Mayor and Council President fail to appoint;
- Establish that each appointing authority may remove their respective Board appointees; and
- Maintain that the Council, by a two-thirds vote, may overturn any removal of a Commissioner.

---OR---

- Designate two Board Commissioner appointments to the Mayor, designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to be selected by the appointed Board Commissioners;
- Establish that each appointing authority may appoint a Board Commissioner without confirmation of the other appointing authorities;
- Provide that the Mayor or Council President may remove a Board Commissioner with the confirmation of the non-removing entity – Council President or Mayor;
- Establish qualifications to serve on the Board (refer to narrative under Option 1);
- Establish the term of each Board Commissioner at either 3 years or 5 years;

#### Creation of an Inspector General/Ratepayer Advocate

- The individual in charge shall be appointed by the Board and confirmed by the Council and the Mayor;
- The Office would have the authority to audit and review programs at the LADWP, investigate complaints of abuse, fraud, or waste of LADWP resources, recommend policies or actions to promote efficiency and effectiveness at the LADWP, and provide independent analyses of internal LADWP actions;
- Grant the Office unrestricted access to all LADWP records, reports, audits, files, correspondence, and data, prompt access to any member of the Board or any officer, employee, or contractor of the LADWP, as necessary;

- Require the Office to make its reports publicly available;
- Require that the office include a Ratepayer Advocate component that would review and analyze proposed rate actions, including both costs associated with those actions and the impacts on the City's renewable programs and goals;
- Require the Ratepayer Advocate component to provide information and publicly accessible recommendations to the Board, the Council, and the Mayor to assist them in reviewing rate actions;
- Require the Ratepayer Advocate component to facilitate consumer protection by granting it the authority to receive complaints or information from ratepayers that are dissatisfied with the results of existing LADWP customer service, investigate those complaints to determine merit, and to propose recommendations to the Board on resolving those issues.
- Require the CAO to annually determine the budget for the Office of the Inspector General; and
- Require the LADWP to fund the Office of the Inspector General at the level recommended by the CAO.

#### Removal of the LADWP General Manager

- To initiate Council removal of the LADWP General Manager, require the Council, by a two-thirds vote, to determine that it will hold a hearing on the removal of the LADWP General Manager at a future meeting;
- Require the Council to then give at least 10 days notice before that hearing to the General Manager of the LADWP, the Board, and the Mayor;
- Require the General Manager, Board, and Mayor to then provide comment on the performance of the General Manager at that hearing; and
- Require removal of the General Manager to then be subject to a two-thirds vote of the Council at that hearing.

#### Reform LADWP Budget Schedule, and Require Transmittal of Budget to City

- Mandate submittal of the LADWP budget to the Council no later than March 31 of each year, with the understanding that final revenue figures and other estimates such as water availability estimates and costs will continue to be refined through May.
- Define the term "surplus" in the context of the annual LADWP Power Revenue Fund transfer to be based on the balance that existed in that fund on June 30<sup>th</sup> of the prior year.

Attachment:  
Motions on LADWP Reform and Summary

**Attachment: Motion Summary and Motions**

**CF 08-1967: Motion (Huizar - Alarcon)** This Motion requests the DWP to establish a fully independent ombudsperson position to provide independent analysis on future proposals for rate increases. The Motion also requests that that position be tasked with tracking initiatives to increase the number of participants in the DWP's discount programs.

**CF 08-1967-S1: Motion (Garcetti - Perry - Reyes - Huizar - Parks - Koretz - Hahn)** This Motion calls for a Ratepayer Advocate Position to be established in the DWP that reports directly to the Board of Water and Power Commissioners, the City Council, and the Mayor.

**10-0586: Motion (Smith - Perry - Parks - Krekorian - Zine)** This Motion proposes to:

- Change appointment of Commissioners to Board of Water and Power from 5 Mayoral appointments to two Mayoral appointments, two Council appointments, and one Congress of Neighborhoods appointment;
- Require Commissioner appointees to have specific backgrounds;
- Establish an Inspector General position or function in the DWP.

**CF 09-2544: Motion (Smith - Garcetti - Perry)** This Motion requests the CAO, CLA, and City Attorney to report on the feasibility of creating an Inspector General position to independently review and report on the operations and management actions of the DWP, the mold of the State's Division of Ratepayer Advocates or the Inspector General at LAPD or the County Sheriff's Department.

**CF 08-1967-S2: Motion (Garcetti - Smith - Perry - Huizar - LaBonge - Reyes - Koretz)** This Motion (which was adopted by the City Council on August 13<sup>th</sup>), calls on the City Attorney, CLA, and CAO to report back with recommendations on a process for public input regarding establishing a ratepayer advocate, and to prepare a ballot measure on establishing that position for the March 2011 ballot. The Motion also asks the DWP to consider setting aside funding to pay for a third party analyst to be held on retainer until the Ratepayer Advocate position is established.

**10-1335: Motion (Zine - Krekorian)** This Motion proposes to change appointment of Commissioners to Board of Water and Power from 5 Mayoral appointments to one Mayoral appointment, one Council appointment, one Controller appointment, one City Attorney appointment, and one Congress of Neighborhoods appointment.

**10-0582: Motion (Smith - Perry)** This Motion proposes to give the City Council the authority to remove the General Manager of the DWP with a 2/3rds vote.

**10-0583: Motion (Smith - Perry)** This Motion proposes to give the City Council the authority to remove any Board of Water and Power Commissioner with a 2/3rds vote.

**10-0587: Motion (Smith - Perry - Parks - Zine - Cardenas - Krekorian)** This Motion proposes to require the DWP annual budget to be adopted by the Mayor and City Council.

**10-1289: Motion (Perry - Smith - Parks - Garcetti - Rosendahl - LeBonge - Zine)** This Motion proposes to establish the definition of 'surplus' in the context of the annual DWP Power Revenue Fund transfer, to be based on the balanced that existed on June 30<sup>th</sup> of the prior year.

**10-0581: Motion (Smith - Parks - Zine)** This Motion proposes to change pension vesting requirements so that LACERS employees who transfer to DWP will have their LACERS service time frozen and need to begin a new five year vesting process in the Water and Power Employee's Retirement Plan.

**10-0584: Motion (Smith - Parks - Zine)** This Motion proposes to create a standard that would establish wage parity between employees of the DWP and general City employees that share the same classification.

**MOTION ENERGY & ENVIRONMENT**

JUL 23 2008

The recent news about the large number of DWP customers (358,374 or one-fourth of the 1.4 million the utility serves) that had overdue bills in May underlines the financial difficulties that many Angelenos are facing. This news of a 13 percent increase in unpaid bills comes before the recently passed higher water and power rates take effect.

At the same time that the water and power rate increases were approved by Council, the low income subsidy was increased from 15 to 20 percent. While this is good news for the 87,500 customers currently enrolled in the Low Income Discount Rate Program, this group represents a tiny fraction of those families whose income qualified them to take part.

DWP has proposed a plan to increase the number of participants in the Low Income Discount Rate Program, which at its peak reached 200,000 customers before a 1998 audit by the Controller's office led to a purging of people from the list who made more than the maximum allowed income. This issue will be heard in committee soon.


There is a need for better tracking of the progress on issues such as the need for future rate increases and how the department is doing reaching out to its low income, senior and disabled customers to see if they qualify for any of its discount programs. Ideally, this would be done by someone who is perceived by all parties as being impartial and unbiased.

The California regulatory agency that governs investor-owned utilities has independent consumer positions known as the Division of Ratepayer Advocates (DRAs). Their statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels. DRAs also help ensure consumer and environmental protections.

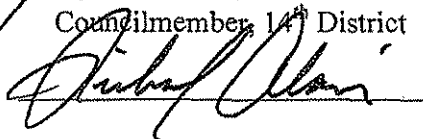
Many newspapers have an ombudsperson on staff to review their news coverage and provide analysis and occasional critiques. The Police Department has an Inspector General to look independently at police policies and procedures in an attempt to ensure they are optimal. The time has arrived for the Department of Water and Power to follow suit.

I THEREFORE MOVE that the Department of Water and Power be requested to establish a fully independent ombudsperson position to provide independent and neutral analysis on future proposals for rate increases and rate restructurings, as well as to track initiatives to increase the number of participants in the department's discount programs so that members of the community and City leadership can be best informed of all relevant issues.

PRESENTED BY:

  
**JOSE HUIZAR**  
Councilmember, 14<sup>th</sup> District

SECONDED BY:



JUL 23 2008

08-1967



08-1967-S1

OCT 16 2009

MOTION

ENERGY & ENVIRONMENT

The Los Angeles Department of Water and Power (LADWP) is at a critical point in their history. LADWP rates, costs of water and energy procurement and infrastructure needs have increased. While LADWP has taken some measures to improve efficiency and spur conservation, often in the form of rate increases, their lack of responsiveness to customers and providing transparency has made these attempts ineffective and left customers disenfranchised.


Additionally, more than two years ago, LADWP embarked on a program to invest in power system infrastructure replacement and upgrades to prevent power outages. That plan lacked customer and community input, or a focus on reduction in consumption. Without a new partnership with customers, LADWP will not be able to effectively implement energy efficient measures to reduce consumption.

Many publicly owned utilities bridge the gap between the utility and its customers through an Office or Position of Ratepayer Advocate. Community leaders in Los Angeles have been advocating for such a position for some time. It is critical that the City review the best practices of this position and present options for the Council to consider. In this manner the City can effectively create a role for customers to have a voice at LADWP.

I THEREFORE MOVE that the City Legislative Analyst and the City Administrative Officer, in conjunction with the City Attorney, report to the Energy and Environment Committee within thirty days on a proposal to implement a Ratepayer Advocate position, consisting of independent staff, reporting directly to the LADWP Board of Water and Power Commissioners, the City Council and the Office of the Mayor.


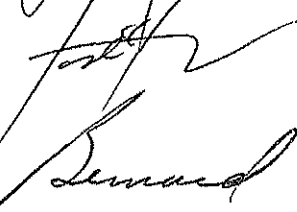

I FURTHER MOVE that the City Attorney be requested to provide input on whether a Charter amendment is required to effectively implement such a program.

PRESENTED BY:

  
ERIC GARCETTI  
Councilmember 13<sup>th</sup> District

SECONDED BY:



  
OCT 16 2009

09-2544

MOTION

ENERGY & ENVIRONMENT

OCT 14 2009

Over the course of the past year, the Department of Water and Power (DWP) has faced a variety of issues that have impacted the City and brought concern to its residents. Areas of concern have included the ongoing deterioration of the DWP's infrastructure and the use of public funds to upgrade and maintain it. This issue is also linked to the decline of sufficient operations and maintenance resources to support it.

To address these matters, the Department has sought base rate increases, however these efforts have been stifled by a lack of transparency as to how the funds will be spent and when improvements will be made.

The DWP's renewables program has also placed significant pressure on the Department as it has sought pass-through increases to support its implementation and commensurate power purchase agreements. The Council recently stalled an electric pass-through increase designed to provide funding for renewable efforts. The Council requested that the Department conduct further reviews of the matter and assess the total impact of renewable efforts before it returns with a proposal.

Additionally, the DWP recently granted a questionable consulting contract to the former General Manager of the Department. The contract is intended to run through the end of the year in exchange for the former executive's institutional knowledge. The former executive served as General Manager for approximately two years.

These issues, and others like them, have raised numerous questions about the DWP's management and its handling of critical situations. Its actions have strained the public's trust. In order to regain the public's confidence, transparency and independent review of the Department's infrastructure implementation, operations and maintenance administration, rates and rate restructuring, renewables implementation and contracting, should be facilitated.

To achieve this, an independent entity such as an Inspector General should be established within the DWP. The Inspector General should have complete and unfettered access to all records, personnel meetings, key documents and contracts at all times. The Inspector General should report findings directly to the public without interference from the Department's Board of Water and Power Commissioners, the Office of the Mayor, the City Council, including special interest groups and Neighborhood Councils.

The position should also be empowered with the ability to assemble an independent review panel of experts to review critical and controversial matters. Furthermore, to facilitate the Inspector General's access to information, the position should have an office within the DWP's headquarters, the John Ferraro Building.

The implementation of an Inspector General position would be consistent with the City Council's action in 2004 requiring all DWP rate increase proposals to undergo a revenue requirements review by an independent third party. The City Council enacted this provision to ensure transparency in the DWP's rate-making process.

By creating an Inspector General position to focus on the DWP and empowering it to have access to vital information, the DWP's entire operations will become more transparent and the public's trust will be fully restored.

I THEREFORE MOVE that the City Administrative Officer, Chief Legislative Analyst and the City Attorney, report in 45 days on the feasibility of creating an Inspector General position to independently review and report on the operations and management actions of the Department of Water and Power.

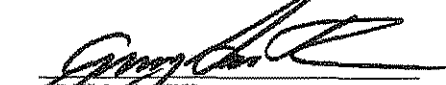
I FURTHER MOVE that as part of this review, these Departments review the establishment/role and effectiveness of the following:

- State's Division of Ratepayer Advocates;
- Inspector General in the Police Department and the Los Angeles County Sheriff's Department;
- The original City Charter and references to an Inspector General for Water matters.

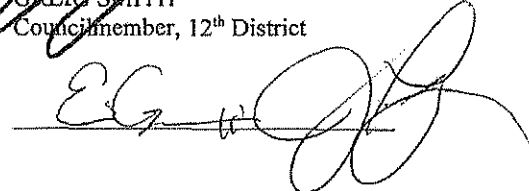
ORIGINAL

OCT 7 4 2009  
OCT 14 2009

PRESENTED BY:

  
GREG SMITH  
Councilmember, 12<sup>th</sup> District

SECONDED BY:





08-1967-52

JUL 13 2010

CHARTERS & ELECTIONS

MOTION

On October 16, 2009, a motion (CF# 08-1967-S1, Garcetti – Perry – Reyes – LaBonge – Parks – Koretz – Hahn) was introduced in Council to report on an independent ratepayer advocate for the Los Angeles Department of Water and Power (LADWP). Since that time, multiple parties including the members of the City Council the Mayor, the public and recently the LADWP's Interim General Manager and the LADWP Board of Commissioners have come to a consensus that the people of the City of Los Angeles can benefit from an independent analyst and advocate at LADWP.

LADWP is a foundational component of our City. It is a multi-billion dollar public entity that provides no less than electric and water service to the millions of people who live and work in Los Angeles. The public is entitled to accountability, transparency and integrity from LADWP. Unfortunately, these elements have been lacking, especially during the recent LADWP attempt to cause power rates to soar by up to 28 percent. LADWP's actions not only violated the public's trust, by causing the City's credit rating to drop, they put Los Angeles taxpayers at risk for millions of dollars in unnecessary interest costs. The LADWP's need for fundamental reform, and for an independent analyst and advocate overseeing the Department, is apparent and acute.

The ideal LADWP "watchdog" would be truly independent, with its role defined and protected by the City Charter. This approach is supported by numerous experts on the City Charter and consumer protection. While LADWP has proposed to its Board of Commissioners the establishment of a "Ratepayer Advocate," true reform of the Department requires true independence. Ultimately answering to LADWP customers and the people of Los Angeles, an effective watchdog office should be outside of LADWP or any political office, and should be provided with the appropriate budget, staffing and structural independence to ensure its success and public faith in its findings. A Charter Amendment must be enacted by a vote of the people of Los Angeles, further empowering the office and ensuring it meets the needs the City's residents.


I THEREFORE MOVE that the City Attorney, Chief Legislative Analyst (CLA) and City Administrative Officer (CAO) prepare and report back within 30 days on all the necessary steps and materials required for a ratepayer advocate Charter change ballot measure including specifics about an operating budget and staffing to be placed on the March 2011 ballot.


I FURTHER MOVE that the CLA and CAO make recommendations on a process for public input on the creation and role of the ratepayer advocate to be completed by September 2010.

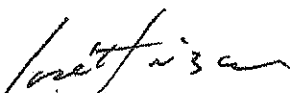
I FURTHER MOVE that the CLA and CAO prepare a recommendation for Council consideration relative to the LADWP setting aside funding for a third party analyst to be held on retainer, and report to the CLA and CAO, until the time that the will of the voting public with regards to the Ratepayer Advocate is met.

PRESENTED BY:

  
ERIC GARCETTI  
Councilmember, 13<sup>th</sup> District




  
GREG SMITH  
Councilmember, 12<sup>th</sup> District

  
JAN PERRY  
Councilmember, 9<sup>th</sup> District

  
JOSE HUIZAR  
Councilmember, 14<sup>th</sup> District

ORIGINAL

SECONDED BY:

JUL 13 2010

10-0586

MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DWP.

I THEREFORE MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure to restructure the membership of the Board of Water and Power Commissioners as follows:

Two members shall be appointed by the Mayor at least one of whom shall have experience in the power and water utility industry;

One member to be elected by the Congress of Neighborhoods;

Two members shall be appointed by the City Council, at least one of whom shall have experience in the field of business, commerce and customer service.

I FURTHER MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be requested to report on existing Charter requirements relative to the backgrounds of City Commission appointees.

I FURTHER MOVE that the Chief Legislative Analyst be directed to report with a study of other governance models for comparison purposes.

I FURTHER MOVE that upon the establishment of an Inspector General position / function in the Department of Water and Power, the Inspector General should be tasked with working with the Board of Water and Power Commissioners to look at other governance models which build consensus.

PRESENTED BY: [Signature] [Signature]  
GREG SMITH JAN PERRY  
Councilman, 12<sup>th</sup> District Councilwoman, 9<sup>th</sup> District

APB  
April 7, 2010

SECONDED BY: [Signature]  
Paul Kekoria Don [Signature]

ORIGINAL

10-1335

JUL 27 2010

RULES & ELECTIONS

MOTION

In response to long-standing calls for reform of the Department of Water and Power (DWP), the City Council is in the process of considering a proposed Charter amendment to create an independent Ratepayer Advocate. This new office would operate at the cost of ratepayers, with its own standalone staff and budget. Ideally, this new office would serve as a watchdog to preserve the integrity of the DWP.

While the idea of a Ratepayer Advocate may sound appealing, it is actually redundant and would add more bureaucratic red tape to an already complicated governance system at DWP. The new office would incur unnecessary additional expenses and perform audits that the City Controller already has the authority to conduct. It would investigate DWP but ultimately still report to the same Board of Water and Power Commissioners that manages the utility today. Nothing would prevent the Board from ignoring the office's reports, pushing its own agenda, and continuing to run in the endless loop of jurisdiction battles with the City Council.

True reform of the people's utility requires a complete reorganization of the Board of Water and Power Commissioners. The Board's overly consolidated power structure, controlled almost exclusively by the Mayor, has led to DWP's current adversarial relationship with the City Council and the public at large. The Board should be composed of individuals with ties to a broader group of interests including the ratepayers themselves. A reformed Board would be the watchful eye capable of examining DWP from within.

I THEREFORE MOVE that the City Attorney, Chief Legislative Analyst, and City Administrative Officer report to the City Council within 30 days with a proposal to place before the voters on the March 2011 ballot an amendment to the City Charter to reorganize the Board of Water and Power Commissioners to be composed of five members as follows:

- 1) One member to be appointed by the City Council;
- 2) One member to be appointed by the Mayor;
- 3) One member to be appointed by the City Controller;
- 4) One member to be appointed by the City Attorney; and
- 5) One member to be elected by the Neighborhood Councils or a Citywide election.

I FURTHER MOVE that this report be presented concurrently to the City Council with any other pending reports on proposed Charter amendments relative to a Department of Water and Power Ratepayer Advocate.

I FURTHER MOVE that the Chief Legislative Analyst and City Administrative Officer make recommendations on how to include this proposed Charter amendment in whatever process for public input is established relative to a Ratepayer Advocate

PRESENTED BY:

*Dennis P. Zine*  
Dennis P. Zine  
Councilmember, 3<sup>rd</sup> District

SECONDED BY:

*Paul Kukorin*  
Paul Kukorin

ORIGINAL

JUL 27 2010

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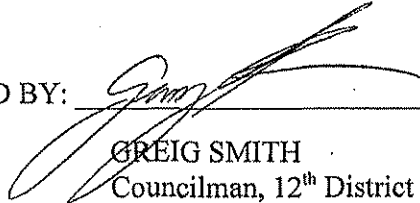
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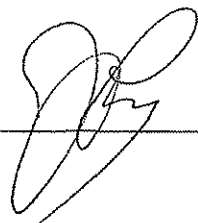
MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW, DWP

The DWP commissioners and the general manager are equally answerable to the Mayor, and it is unreasonable to expect the Board to object to an initiative that comes from the department or directly from the Mayor's office. Last week's Board of Water and Power Commissioners vote on the Mayor's carbon surcharge was a clear example of this dynamic. The Mayor wanted the plan; and the board adopted the plan.

I THEREFORE MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure which would provide for the removal of the General Manager of the Department of Water and Power by a two thirds vote of the City Council,

PRESENTED BY:   
GREIG SMITH  
Councilman, 12<sup>th</sup> District

SECONDED BY: 

April 7, 2010



ORIGINAL

10-0583


MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW. DPW

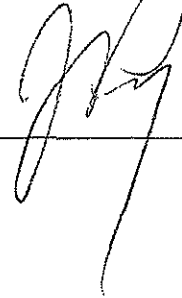
The DWP commissioners and the general manager are equally answerable to the Mayor, and it is unreasonable to expect the Board to object to an initiative that comes from the department or directly from the Mayor's office. Last week's Board of Water and Power Commissioners vote on the Mayor's carbon surcharge was a clear example of this dynamic. The Mayor wanted the plan; and the board adopted the plan.

I THEREFORE MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure which would provide for the removal of any member of the Board of Water and Power Commissioners by a two thirds vote of the City Council.

PRESENTED BY: \_\_\_\_\_

  
GREIG SMITH  
Councilman, 12<sup>th</sup> District

SECONDED BY: \_\_\_\_\_



April 7, 2010



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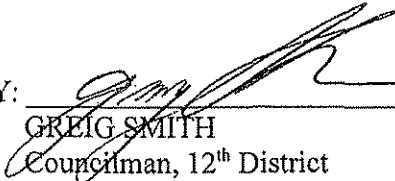
10-0587


MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the ~~DPW~~, DPW.

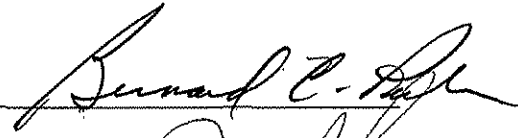

I THEREFORE MOVE that the City Attorney with the assistance of the City Administrative Officer, and the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure to provide that the annual budget of the Department of Water and Power shall be adopted by the City Council with the concurrence of the Mayor.

PRESENTED BY:

  
GREIG SMITH  
Councilman, 12<sup>th</sup> District

  
JAN PERRY  
Councilwoman, 9<sup>th</sup> District

SECONDED BY:

  
  
Tony Cairns  
Paul Kerkorian

April 7, 2010

APB

ORIGINAL

10-1289

ENERGY & ENVIRONMENT RULES & ELECTIONS

JUL 22 2010

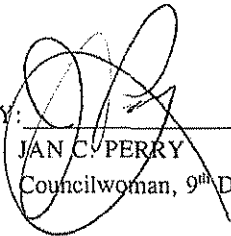
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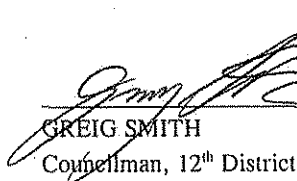
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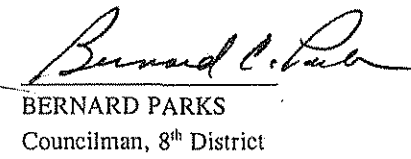
The annual transfer from the Department of Water and Power's Power Revenue Fund is cash that is deemed surplus and it is a source of funds that the City relies on to provide essential services that are funded by the General Fund. The City needs to have in place a mechanism to provide budgetary certainty on this process.

I THEREFORE MOVE that the City Attorney, with the assistance of the City Administrative Officer and the Chief Legislative Analyst be requested to prepare and present the documents necessary to place on the March, 2011 ballot a proposition that would establish the definition of 'surplus' in the context of the annual DWP Power Revenue Fund transfer, to be based on the balance that existed on June 30<sup>th</sup> of the prior year, based upon audited receipts and verifiable by the City Administrative Office or a qualified third party.

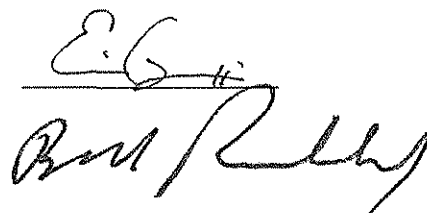
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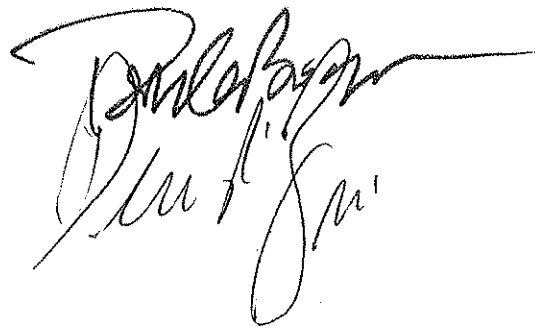
  
JAN C. PERRY  
Councilwoman, 9<sup>th</sup> District

  
GREIG SMITH  
Councilman, 12<sup>th</sup> District

  
BERNARD PARKS  
Councilman, 8<sup>th</sup> District

SECONDED BY:





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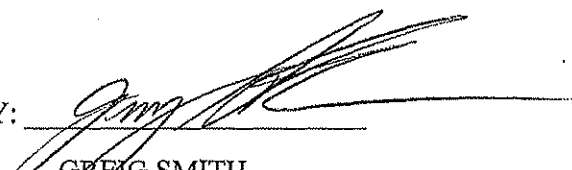
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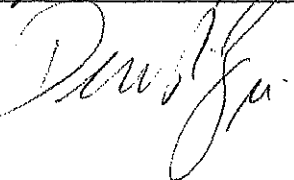
10-0581

MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW: DWP

I THEREFORE MOVE that the City Administrative Officer, with the assistance of the Personnel Department and the City Attorney be directed to report on the feasibility of establishing new vesting requirements so that LACERS employees who transfer to DWP shall have their LACERS service time frozen and shall need to begin a five year vesting process in the Water and Power Employees' Retirement Plan just like any other new employee.

PRESENTED BY:   
GREG SMITH  
Councilman, 12<sup>th</sup> District

SECONDED BY:   


April 7, 2010

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10-0584

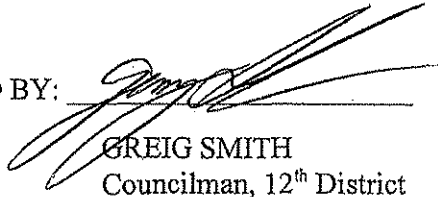
ENERGY & ENVIRONMENT

MOTION

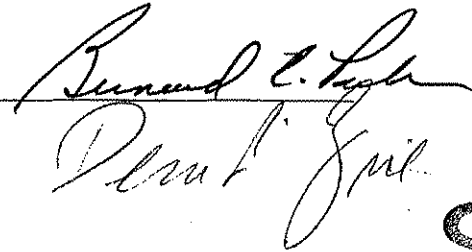
Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW.

I THEREFORE MOVE that the City Attorney with the assistance of the City Administrative Officer, the Personnel Department and the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure to provide for setting a standard to obtain wage parity between categories of employees of the Department of Water and Power with categories of employees of the City of Los Angeles.

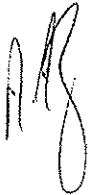
PRESENTED BY:

  
GREIG SMITH  
Councilman, 12<sup>th</sup> District

SECONDED BY:



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